

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 10/24/01?
b. The request was received on 04/01/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60
 1. EOBs
 2. UB-92
 3. Medical records
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II
 - a. Response to Request for dispute resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/26/02. Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 06/27/02. The response from the insurance carrier was received in the Division on 07/10/02/02. Based on 133.307 (i) the insurance carrier's response is timely.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 04/01/02
"Please review this appeal for low payment."
2. Respondent: Letter dated 07/10/02
"...Carrier's rate of reimbursement in this case not only meets but exceeds the Act's criteria for payment in all respects. Provider has the burden of proof in this case. The Provider has simply not met its burden of proof under 133.305 (e)(1) (F) to establish that its billed charges of \$4,368.20 meet the statutory standards under the Act."

IV. FINDINGS

1. Based on Commission Rule 133.307 (d)(1&2), the only date of service (DOS) eligible for review is 10/24/01.

2. The amount in dispute is \$2,812.98 per the disputed services table chart.
3. The carrier disputed the reimbursement request based on a fair and reasonable denial.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. Regardless of the carrier’s methodology or lack thereof, or a timely or untimely response, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable.

The provider has submitted no documentation to support that its fees are fair and reasonable. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 28th day of August 2002.

Carolyn Ollar, RN, BA
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers’ Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.